

REMARKS

Reconsideration of this application is respectfully requested. Applicant has addressed every ground for rejection in the Office Action dated June 17, 2004, and believes the application is now in condition for allowance.

The present invention relates to a safety mechanism for preventing the accidental discharge of live ammunition during training exercises. In particular, the present invention prevents the discharge of an actual or live round of ammunition from a firearm through the use of a plurality of apertures located about the barrel portion of the firearm and aligned with part of the cartridge. The apertures cause portions of the cartridge to be blown out so as to vent the pressure which is generated by the firing of the cartridge, through the apertures and thereby retain the cartridge within the firearm. In the preferred embodiment, the portions of the cartridge that are blown out burr out into the apertures to prevent the firearm operator or shooter from manually operating the bolt to place another live round in the chamber. Accordingly, if live rounds are loaded into a firearm, the firearm will malfunction after the first live round is attempted to be discharged, thereby preventing the shooter from attempting to fire more than one live round of ammunition.

The claims have been amended, and new claims added, to more clearly describe the present invention. Specifically, Claims 1, 2 and 4 have been amended to more clearly describe the present invention. In particular, the claims have been amended to clarify that there are at least two apertures in the barrel of the firearm to release pressure from a live cartridge, and that the firearm is a rifle such as an M-16 assault rifle or a machine gun; and new Claims 7 through 18 have been added.

Claims 1-6 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. In particular, the Examiner has stated that use of the “bullet portion” in claims 1 and 4 with respect to the cartridge being retained in the firearm is confusing, and the use of language “to propel said cartridge” is confusing as it is the bullet that is propelled down the barrel. Claim 1 has been amended to clarify that the cartridge is retained in the barrel. Claim 4 has been amended to clarify that it would be the bullet that would be propelled down the barrel and that it is the cartridge that is retained within the barrel. Accordingly, it is respectfully submitted that this rejection is traversed.

Claims 1-6 stand rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 5,937,563 to Schuetz et al. Schuetz is directed to a system for releasing pressure in connection with simulated pistol or handgun cartridges fired in a modified firearm. The modified firearm includes a bore that has a diameter that is substantially less than the bore of a conventional weapon that would be chambered for the same cartridge. The reduced size of the bore acts to prevent the firing of a live round. A single gas relief port, which is connected to a forward extending gas exhaust channel is located on the top or bottom of the barrel and directs the released gas or pressure in a direction along the barrel of the firearm and away from the shooter and any persons standing alongside of the firearm.

It is respectfully submitted that in view of the clarifications to the claims, the prior art cited by the Examiner does not show or teach the claimed subject matter of the present application and, in fact, teaches away from the claimed subject matter.

As set forth above, the claims have been amended to clarify that the system and method involve at least two apertures on the barrel portion of a standard firearm other than a handgun.

Schuetz only teaches the use of one port that must “not be formed in the portion of the barrel that is exposed to the side of the shooter.” [Col. 6, lines 57-59].

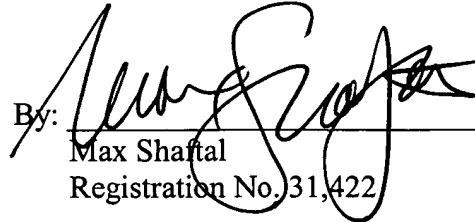
As set forth in the declaration of Robert Gee, use of a single hole or aperture as disclosed in and taught by Schuetz will not work in firearms other than a handgun, such as a non-modified rifle. [Gee Decl. ¶6] In particular, rifle cartridges are made with a slower burning powder that leads to considerably higher pressures. [Id. at ¶5] Based on Mr. Gee’s testing, the use of one hole in a non-modified conventional rifle will do one of two things: 1) it will only bulge the brass into the opening drilled in the chamber and not allow the pressure to bleed off; or 2) it will not allow enough pressure to escape through the hole in time to stop the bullet from traveling down and exiting the bore. [Id. at ¶6] Accordingly, it is respectfully submitted that Schuetz does not teach the use of at least two apertures in the barrel portion of a rifle. Accordingly, the present rejection should be withdrawn and the claims allowed to issue.

Finally, to more clearly define the unique features of the present invention, new claims 7 through 18 have been added. Applicant respectfully submits that claims 7 through 18 are patentably distinct from all of the references of record. In particular, the cited reference fails to teach or suggest, among other things, retaining the cartridge in the firearm to prevent additional live cartridges from being loaded and fired; multiple apertures; and apertures that disperse pressure to the side of the rifle. Furthermore, the Schuetz patent specifically teaches against the use of apertures that would disperse pressure from the cartridge along the side of the firearm. Therefore, because the cited prior art fails to teach or suggest Applicant’s invention as claimed in new Claims 7 through 18, Applicant respectfully submits that the new claims are patentably distinct over the prior art references of record. Allowance of the new claims is, therefore, respectfully requested.

Should the Examiner discover that there are remaining issues that could be resolved by an interview, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

November 5, 2004
PATZIK, FRANK & SAMOTNY LTD.
150 South Wacker Drive
Suite 900
Chicago, Illinois 60606
Telephone No.: 312-551-8300
Facsimile No.: 312-551-1101

Respectfully submitted,

By: 
Max Shafal
Registration No. 31,422